

S.B.CRIM.MISC. PETITION NO.1220/2005

**Sunder Lal Mandawat
Vs.
State of Rajasthan & Anr.**

Date :: 05.07.2006

HON'BLE MR.JUSTICE H.R. PANWAR

Mr.M.K. Garg, for the petitioner.
Mr.Ashok Upadhyay, Public Prosecutor for State.
Mr.Pradeep Shah, for the non-petitioner No.2.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioner has assailed the order dated 19.10.2005 passed by the Additional Judicial Magistrate No.1 (North), Udaipur (for short 'the trial court' hereinafter) whereby the trial court directed the SHO Police Station Dhanmandi to investigate the complaint forwarded to it and recover the original stamp papers and file the investigation report within a month.

Aggrieved of the order impugned to the extent directing to recover the original stamp papers, the petitioner has filed the instant misc. petition.

Heard learned counsel for the parties.

Learned counsel for the petitioner submits that to the extent forwarding the complaint to the Police for investigation, the order is in consonance with law but the

direction given by the trial court to recover the original stamp papers is contrary to the provisions of law. He relied upon a decision of Hon'ble Supreme Court in Roopchand Lal & Anr. vs. State of Bihar & Anr. reported in 1968 SC 117.

Learned counsel for the non-petitioner also agree that the order to the extent directing the Police to recover the original stamp papers is contrary to the provisions of law and the order to this extent cannot be sustained.

Consequently, the criminal misc. petition is partly allowed and the order impugned to the extent directing SHO Police Station Dhanmandi to recover the original stamp papers is set aside. The SHO Police Station Dhanmandi shall investigate the matter and submit the report before the trial court as early as possible.

Stay petition also stands dismissed.

[H.R. PANWAR],J.

Ashwini/-